



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,842	06/06/2005	Vittorio Orlandi	207,020	8600
7590 10/17/2008				
Jay S Cinamon Abelman Frayne Schwab 666 Third Avenue 10th Floor New York, NY 10017-5621			EXAMINER JOHNSON, JENNA LEIGH	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 10/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,842

Applicant(s)

ORLANDI, VITTORIO

Examiner

Jenna-Leigh Johnson

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-12 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment submitted on June 20, 2008, has been entered. Claims 2 and 13 - 15 have been cancelled. Claim 1 has been amended. Therefore, the pending claims are 1, 3 - 12, and 16.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3 - 12, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rugmaker's Homestead Website: A Brief General History of Rag Rugs; Rugmaker's Homestead Website: #17: Loom Woven rag Rugs; and Rugmaker's Homestead Website: #19 Frame Woven, Twisted Warp and Twisted Weft Rugs for the reasons of record.

Response to Arguments

4. Applicant's arguments filed June 20, 2008 have been fully considered but they are not persuasive. The applicant argues that the prior art is not sufficient since there is no suggestion by the prior art that there would be a relationship between the type of fibers and the final properties of the fabric (response, page 4). First, it is noted that it is well known that the types of fibers used to make a fabric will influence the properties of the final product. For instance, a fabric made from cotton fibers will be soft, bulky, and absorbent, while a fabric made from polyester fibers will be smooth, strong, and non-absorbent. And it would be understood by one of ordinary skill in the art that a change in materials used to make a rag weave fabric would change the final properties.

Additionally, it has been held that failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art reference does not preclude a finding of anticipation. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1349, 51 USPQ2d 1943, 1948 (Fed. Cir. 1999). Thus, if the product would be obvious then the properties of those materials would also be obvious, unless the applicant has provided evidence that the properties are unexpected. Further,

Art Unit: 1794

arguments of counsel cannot take the place of evidence. *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984). Therefore, the applicant's arguments that the relationship between the type of materials used to make the fabric strips and the properties of the final product is critical and unobvious is not sufficient to show unexpected results. Further, the applicant has not claimed any properties related to the claimed materials, nor has the applicant provided any evidence that these properties are unobvious or unexpected. In fact, the applicant is only claiming that the fabric is a hydroentangled material in claim 1, there are no limitations with regards to the types of fibers used in the hydroentangled fabric or the exact structure of the hydroentangled fabric, as argued by the applicant. However, for the applicant to show that the fabric woven from hydroentangled strips has some unexpected properties, the applicant must provide evidence that demonstrates the woven fabric has different properties from the nonwoven fabric by itself.

Additionally, the applicant argues that it would not be expected that the fabric could be used as a cleaning cloth. First, it is noted that the applicant is claiming the product itself and not the method of using the product. Claim 16 is considered to be reciting the intended use of the product and not the method of using the product as a cleaning cloth. There are no positively recited limitations with regards to cleaning or cleaning article other than a general textile. Therefore, the prior art does not need to teach that the cloth is used as a cleaning cloth. Second, it is known that hydroentangled materials can be used as cleaning cloths. Thus, it does not seem surprising that a hydroentangled cloth could be used as a cleaning cloth when it is woven. Therefore, the rejection is maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

Art Unit: 1794

date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Johnson whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlj
October 13, 2008

/Jenna-Leigh Johnson/
Primary Examiner, Art Unit 1794